

**DOING BUSINESS
WITH THE
STATE OF HAWAII**

A VENDOR GUIDE

NO KE KŪ 'AI ANA AKU . . .

to sell



**Prepared by:
STATE PROCUREMENT OFFICE**

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Assistance was provided by the purchasing professionals in Hawaii and the National Association of State Purchasing Officials members George Street, Director of Purchasing, State of Tennessee, Don Buffum, Director of Purchasing, State of Mississippi and Linda Carroll, Special Projects Director for NASPO.

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FOREWORD

Welcome,

The state of Hawaii and its counties offer the business community many opportunities to sell goods, services, and construction. In 1993, the Hawaii legislature took steps to ensure that you, the business person, have a single contact source to turn to on procurement policy matters. While there are 16 Chief Procurement Officers and numerous other government professionals who you will want to market to directly, you now have one law governing the procurement process within our state. This guide offers you a brief overview of the structure of purchasing in the state of Hawaii and the related laws. We hope the information it provides entices you to join the many other businesses currently providing goods, services, and construction to the state of Hawaii.

As the Administrator of the State Procurement Office, I serve as the central coordinator of procurement policy issues within our state. Hawaii continues to be decentralized in its procurement of goods, services, and construction but questions on policy matters can be directed to me at the State Procurement Office.

The state of Hawaii cannot operate without the goods, services and construction of private businesses. Through your participation in the open competition for sales, the government and the taxpayer benefit from improved quality at lower prices.

The Hawaii procurement code is designed to ensure fair and equitable treatment of all persons who deal with the procurement process. Your participation in this process can be financially rewarding to you as well as to the state of Hawaii.

My office is open to you at any time.

**Lloyd I. Unebasami, Administrator
State Procurement Office
P.O. Box 119, 1151 Punchbowl Street
Honolulu, Hawaii 96810
Phone (808) 587-4700, Facsimile (808) 587-4703**

The state of Hawaii does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities and is in compliance with ADA (American with Disabilities Act of 1990) 42 United States Constitution, Section 12101.

This guide is provided for general information purposes only. Nothing contained herein shall be construed to amend, modify, override, or nullify any state statute, county ordinance, rule, policy, procedure or document used in the procurement process.

THE ORGANIZATION OF HAWAII PUBLIC PROCUREMENT

Hawaii's procurement function is decentralized. Due to the physical make up of the state (six main islands), chief procurement officers representing various state or local jurisdictions take responsibility for the procurement of goods, services, and construction and the management, control, warehousing, sale and disposal of surplus goods. They may also establish common items on requirements contracts referred to as price lists or price schedules.

The Procurement Policy Board

The implementation of Administrative rules related to procurement is centralized within the Procurement Policy Board which is an autonomous board made up of five members. The Board adopts rules consistent with the procurement statute found in Chapter 103D, Hawaii Revised Statutes (HRS). The Board also has the authority to audit and monitor implementation of its rules and the statutes but may not exercise authority over the award or administration of any particular contract, dispute, claim or litigation.

The Procurement Policy Board is administratively attached to the Department of Accounting and General Services, and receives its staff support from the Administrator of the State Procurement Office. The Board does not have a structured meeting schedule but makes every effort to meet when there are rules to be amended or new rules to be issued.

The State Procurement Office and Its Administrator

The State Procurement Office, also administratively attached to the Department of Accounting and General Services, is headed by the Administrator who wears two hats, one as a non voting advisor to the Procurement Policy Board and the other as one of the 16 Chief Procurement Officers of the state. The Administrator is appointed by the Governor for a term of four years.

As Chief Procurement Officer for the executive branch of government, excluding the University of Hawaii and the Department of Education, the Administrator has the authority to perform periodic reviews of the procurement practices of all governmental bodies and may assist, advise and guide governmental bodies in matters relating to procurement.

The Chief Procurement Officer

There are 16 Chief Procurement Officers and they serve as the central procurement officer for their jurisdiction. A listing of those individuals can be found under the heading, Purchasing Authorities.

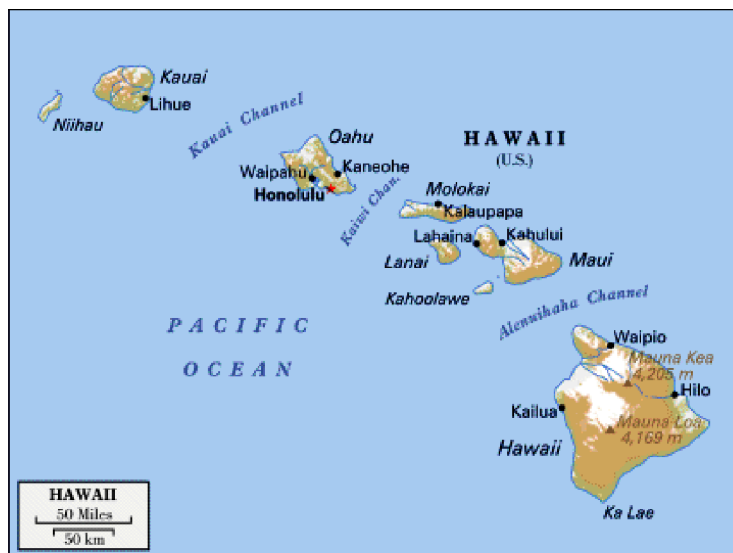
PURCHASING AUTHORITIES

Because the state of Hawaii is decentralized in its purchase of goods, services and construction, procurement decisions are made independently by sixteen (16) separate Chief Procurement Officers who represent various branches of government, agencies or counties. Those individuals and their county or agency are: (Note: The area code for all numbers is 808).

Executive Branch Administrator State Procurement Office Honolulu, Hawaii Phone 587-4700 Fax 587-4703	Department of Education Superintendent Procurement and Distribution Center Phone 675-0130 Fax 675-0133	University of Hawaii President Procurement and Property Mgmt. Office Phone 956-8687 Fax 956-5286
Community Hospitals Div. Deputy Director Department of Health Phone 586-4416 Fax 586-4612	Office of Hawaiian Affairs Board of Trustees Phone 594-1858 Fax 594-1865	Judiciary Administrative Director of Courts Contract & Purchasing Phone 538-5805 Fax 538-5802
House of Representatives Speaker of the House State Capitol Bldg. Phone 586-6100 Fax 586-6101	Senate Senate President State Capitol Bldg. Phone 586-6870 Fax 586-6819	

City and County of Honolulu: Chairperson Honolulu City Council Honolulu, Hawaii Phone 523-4708 Fax 523-4220	Hawaii County: Chairperson Hawaii County Council Hilo, Hawaii Phone 961-8263 Fax 969-3291	Kauai County: Chairperson Kauai County Council Lihue, Hawaii Phone 241-6371 Fax 241-6349
Finance Director Department of Finance Phone 523-4617 Fax 523-4771	Finance Director Department of Finance Phone 961-8231 Fax 961-8248	Finance Director Department of Finance Phone 241-6525 Fax 241-6877
Maui County: Chairperson Maui County Council Wailuku, Hawaii 96793 Phone 243-7682 Fax 243-7686		
Finance Director Department of Finance Phone 243-7844 Fax 243-7878		

HAWAII AND ITS COUNTIES



FREQUENTLY ASKED QUESTIONS FROM THE BUSINESS COMMUNITY

1. How do I get on the bidders list?

The state of Hawaii and its counties generally do not maintain a Bidders List. Procurements for goods or services \$10,000 or more, or construction \$25,000 or more, currently must be advertised in a newspaper of general circulation. It is up to you to closely monitor the public advertisements which are regularly placed in Hawaii newspapers. Any Chief Procurement Officer (CPO) or their designee is responsible for advertising their intent to procure, with the authority to solicit bids, proposals, enter into contracts, issue purchase orders and process payments. In addition to advertising,

each CPO normally posts bid information on their office bulletin board. The newspaper advertisement or posting will give you information on where to obtain the detailed bid document.

Copies of bid notices are also accessible via the state's Hawaii FYI electronic gateway by dialing modem number (808)587-4800. For Hawaii FYI assistance, call (808)586-1919 on Oahu, and 1-800-252-1132 from the neighbor islands. The notices are also available on the Internet at "<http://www.state.hi.us>, the state of Hawaii Internet Home Page address. Scroll to and click on The Executive Branch, Departments and Agencies, and under the Department of Accounting and General Services, click on SPO. In the future, electronic media may replace the current requirement for newspaper advertising.

2. How are procurements under \$10,000 handled?

Expenditures less than \$10,000 for goods or services, or less than \$25,000 for construction are referred to as small purchases. For more information on this area of procurement, see the section entitled SMALL PURCHASE PROCUREMENT.

3. Is every procurement decentralized?

No, there are several exceptions. The Department of Accounting and General Services, Public Works Division, handles most engineering services and design and construction for state buildings. The Department of Transportation, handles the construction and maintenance of the state's highways, airports and harbors. Each county is responsible for procurement within their jurisdiction. The State Procurement Office issues price lists of established contracts and the counties issue price schedules. The State Procurement Office bids commonly used items which sets prices over a specified period of time and makes them available to all agencies and participating counties. Each CPO has the

authority to purchase goods, services and construction, and may delegate this authority to appropriate purchasing agencies.

4. What is a price list (price schedule) and is it a good idea for me to bid on one?

A price list is a group of commonly used items or services which are competitively bid to set prices for a specified period of time. The State Procurement Office, as a part of their service, cooperatively bid commonly used commodities or services based on estimated consumption in a specified period of time. If your company were awarded a price list contract, you would be obligated to offer those goods or services to all participating state agencies and/or counties, regardless of their location. For additional information on this area of procurement, see the section entitled PRICE LISTS.

5. Does the state have any preference laws which would give an advantage to in-state business, or to certain products?

There are preferences for products on the Hawaii Products List, recycled products, printing, binding and stationery work, reciprocal preferences, software development business and a preference for in-state contractors. Businesses may obtain information from the Department of Business, Economic Development and Tourism (DBED) so they can better understand how to do business with the state. For more information on this area of procurement, see the section entitled PREFERENCES.

6. I see that you have some commodities on contract, but you don't have what I sell. How

do I get the state to put my commodity on a price list or price schedule?

The state and county procurement offices attempt to determine the common-use items and the items that can most efficiently and economically be purchased using the competitive bid process. For a new commodity to be put on contract, they normally rely on the various agencies to notify them of a need. If agencies identify a specific need for a commodity, the state or county procurement office may then begin the process of developing specifications and soliciting bids.

7. If my company is submitting a sealed bid, when is it due and can I be present at the opening of the bids?

All sealed bids in response to an IFB, are due at the time, date and location specified in the bid document. In an effort to ensure standardization of bid receipt time and to allow those outside Hawaii to submit bids via overnight mailing service, most sealed bids are due at 2:00 p.m. Hawaiian Standard Time (HST) at the place designated for receipt and opening. Late bids are automatically rejected unless personnel within the procurement office are found to be responsible for the lateness. You are welcome to attend any sealed bid (IFB) opening and may review bids received during the bid opening. However, response to competitive sealed proposals (RFP's) are not opened in public, and award information is not available for public inspection until the contract is signed by all parties.

8. Am I allowed to visit end users or Chief Procurement Officers to show my product or market my service?

Vendors are requested to make appointments in advance and to limit the meeting to current information about the product or service. Visits to using agencies are encouraged. Remember that informing a CPO of your product or service does not add it to a price list. The requirement must come from a using agency.

BID SUBMISSION CHECK LIST

Bids must be manually signed in ink in the space provided on the solicitation; original signature must be submitted with the bid.

1. In the case of errors in the extension price, the unit price will govern.
2. Bids must meet the minimum specifications, including the unit of measurement, (i.e., case, package, each).
3. Submit your bid in a sealed envelope or the envelope furnished, one bid per envelope.
4. The envelope should be clearly marked and labeled on the outside with bidders name and address and referencing the applicable solicitation number and the bid opening date.
5. Bids must be received at the designated location on or before the date and hour designated for the bid opening.
6. If bidding on a construction project equaling or exceeding \$25,000, you must file a written notice of Intent to Bid at least 10 days prior to submitting your bid. The Intent to Bid must contain your contractor's license number, expiration date, and classification.
7. Bid bonds, when required, must be included with the bid.
8. Check the bid document for other mandated requirements carefully.
9. Do not include any unauthorized additions, deletions or conditions.

PRICE LISTS OR PRICE SCHEDULES

A price list or price schedule, hereinafter referred to as a price list, is a group of common items or services which are competitively bid to set prices for a specified period of time. The Chief Procurement Officer establishes these contracts. The price list is important to you as a vendor if your company sells any of the goods or services requested in a price list. In order to bid on a price list you should:

- ▶ Arrange a meeting with the appropriate buyer
- ▶ Review current price lists
- ▶ Review the current specifications of items on the price list
- ▶ Request the price list bidding schedule
- ▶ Watch the newspaper for advertisements
- ▶ Access the Internet at <http://www.state.hi.us>

SMALL PURCHASE PROCUREMENT

Expenditures less than \$10,000 for goods or services, or less than \$25,000 for construction are referred to as small purchases.

Procurement procedures:

Goods and Services

Expenditures at least \$1,000 but less than \$10,000 required no less than three quotations and shall be awarded to the vendor with the most advantageous quotation. Expenditures less than \$1,000 shall be by procedures established by each Chief Procurement Officer.

Construction

Expenditures at least \$4,000 but less than \$25,000 require no less than three quotations and shall be awarded to the vendor submitting the lowest quotation based on the agency's specifications. Expenditures less than \$4,000 shall be by procedures established by each Chief Procurement Officer.

Please be aware that the above are only the minimum requirements pertaining to small purchases, and that each Chief procurement Officer may have stricter policies.

COMPETITIVE SEALED BIDDING

Purchase of goods and services \$10,000 or more, and for construction of \$25,000 or more are made through competitive sealed bidding after advertising in a local newspaper of general circulation. Generally, the bidder must obtain a copy of the solicitation from the procurement office. The bid document specifies the scope of work or requirements, specifications, and terms and conditions for the furnishing of goods, services, or construction to meet the needs of the state or county.

The bidder must comply with the requirements of the bid document. It requires careful checking of the time, date, and location for submittal of the bid. Facsimile or photocopied bids are acceptable when allowed by the specific solicitation. Normally, the bid document will provide a name and phone number for bidder to contact for questions and further information. Please do so if you have any questions, as it may prevent your offer from being rejected.

MULTI-STEP SEALED BIDDING

Multi-step sealed bidding is used when it is not practical to initially prepare definitive specifications which will be suitable to permit an award based on price. Multi-step sealed bidding is a combination of the competitive sealed proposal procedure which allows the solicitation of technical offers and follow up discussions which determine the acceptability of technical offers, and competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder.

As a bidder, you may be required to participate in a pre-bid conference to discuss the solicitation and/or other issues at any time during the evaluation of the unpriced technical offer.

COMPETITIVE SEALED PROPOSALS

Sometimes, competitive sealed bidding is determined to be either not practicable or not advantageous to the state. This determination allows the award to be based on factors other than price. In that instance, awards for the purchase of goods, services, and construction may be made through a request for proposal (RFP).

A RFP will be generated by the appropriate procurement office and contain specific information related to the terms and conditions of the procurement. Proposal evaluation methods will be defined in the RFP and rating systems may be used. The Chief Procurement Officer ensures that proper procedures are in place to safeguard the information contained in the vendor proposal and to provide fairness to all vendors in the negotiation process.

PROFESSIONAL SERVICES

Professional services may be procured through any of the source selection methods allowed by the procurement code. These methods are competitive sealed bids, competitive sealed proposals, professional services list process, small purchase process, sole source, and emergency procurement. The professional services list process is discussed in this section.

At least annually, before the beginning of the fiscal year, and more often as necessary, each purchasing entity must solicit names and statements of qualifications from persons able to provide technical professional services. Professional services are defined by rule and include architecture, landscape architecture, professional engineering, land surveying, real property appraisal, law, medicine, accounting, dentistry, public finance bond underwriting, public finance bond investment banking, or any other practice defined as professional by the laws of this state or the professional and scientific occupation series contained in the United States Office of Personnel Management's Qualifications Standards Handbook. The statement of qualifications should include:

1. The name and address of the firm;
2. The age of the firm and its average number of employees;
3. The education, training and qualifications of key members of the firm;
4. Name and phone number of client references; and
5. Any promotional and descriptive literature regarding the firm.

Following the annual public notice for professional services there is an annual designation of a review committee of three employees per purchasing agency to review statements of qualification and select qualified persons.

The final steps in the selection of professional service providers comes after an agency identifies a need and subsequently moves

forward with the actual procurement. At that point the following steps occur:

1. Establish a screening committee of at least three persons to evaluate the list of qualified providers of the professional service and from that list, identify three prospective suppliers who might meet the specific need of the agency.
2. Allow the head of the purchasing agency to evaluate the three selected suppliers and rank those in order of preference.
3. The head of the purchasing agency begins confidential negotiations with the first of the three selected suppliers and continues with each of the other two if a satisfactory contract cannot be reached.
4. If negotiations fail to result in a successful contract from any of the three suppliers, the screening committee may be asked to provide additional names.
5. If less than three suppliers could be identified at any point in the process, the head of the purchasing agency may begin negotiations according to steps set forth by regulation.

Professional service contracts in excess of \$100,000 generally require cost or pricing data which must be submitted to the head of the purchasing agency. All information is made public after award and contract signing unless the supplier specifically notes that the information is confidential.

SOLE SOURCE PROCUREMENTS

Sole source procurements are made without competition if the goods, services, or construction needed are available from only one source. Sole source procurements are for goods or services \$10,000 or more, or construction projects \$25,000 or more. Any procurement which is less than those thresholds is handled as a small purchase. In a sole source procurement, the end user must

justify and document the need and written approval must be granted by the Chief Procurement Officer (CPO) for that agency or county. In addition, the CPO and the agency must publicly post its intention to procure from a sole source at least seven days prior to approval being granted by the CPO. The Procurement Policy Board has the authority to prequalify needs as sole source procurements. A listing of those items can be obtained from the State Procurement Office or can be found attached to Chapter 3-122 of the Hawaii Administrative Rules (HAR).

EMERGENCY PROCUREMENTS

Emergency purchases of goods, services or construction are made whenever situations or conditions arise which create a threat to public health, welfare or safety and normal competitive procurement methods cannot be followed. Emergency procurements are for goods or services \$10,000 or more or construction projects \$25,000 or more. Documentation of the need and approval of the procurement by the Chief Procurement Officer is required. Any procurement less than those thresholds is handled as a small purchase.

COST OR PRICING DATA

Cost and pricing data refers to all facts as of the date of a price agreement that prudent buyers and sellers believe to be significant influences on price negotiations. Cost and pricing data is factual and verifiable and contributes to determinations about the reliability of future cost estimates. Cost and pricing data are required to be submitted in writing prior to price negotiations.

Cost and pricing data may be submitted after an emergency procurement award.

Cost and pricing data are generally not required for small purchases or for contracts awarded under competitive sealed bidding or multi step competitive sealed bidding unless price adjustments are subsequently made to a contract, and exceeds \$100,000. Cost and pricing data is required under the following conditions:

1. If a contract is expected to exceed \$100,000 and awarded by sole source, competitive sealed proposal, or the procurement of professionals services pursuant to subchapter 7, Chapter 3-122, HAR;
2. If the price of any contract is adjusted up or down by \$100,000;
3. If an emergency procurement is made in excess of \$100,000; and
4. If the Chief Procurement Officer wants cost and pricing data and that request falls within the limits set by §3-122-123-(4), HAR.

SPECIFICATIONS

The Chief Procurement Officers ensure that all specifications are open and promote competitive bidding. Some specifications allow for repeated use in procurements. Specifications refer to any physical or functional requirements of a good, service or construction item. All material, supplies and equipment offered and furnished must be new, and of current manufacturer production, unless the solicitation specifically permits offers of used or reconditioned items. Vendors are encouraged to notify the State Procurement Office prior to the bid opening whenever specifications are not openly competitive or not desirable. A

vendor may manufacture or ship an item that materially conforms to or exceeds the specifications, but which may be technically different from the item bid. Substitutions shall require the written approval of the procurement officer or designee prior to shipment.

INTENT TO BID

Firms or individuals who intend to bid on construction projects \$25,000 or more must file an intent to bid with the procurement officer at least ten (10) days prior to the date designated for opening of bids. The intent to bid allows the procurement officer the opportunity to determine if the prospective bidder has the ability to perform the work needed.

INSPECTION, TESTING, SAMPLING AND DEMONSTRATION

Inspection, testing, sampling and demonstration of goods, services and construction offered by vendors/contractors may be required prior/after award.

RIGHT TO AUDIT RECORDS

The purchasing agency may audit the books and records relating to the award of a contract to a contractor or subcontractor prior to or after award. Contractors are required to maintain records of transactions related to state business for three years after the date of final payment in accordance with § 3-122-181, HAR.

PUBLIC RECORDS

All bids and bid abstracts are public records and available for inspection during regular business hours, except as specified by rules.

ACCEPTABLE BID SECURITY, CONTRACT PERFORMANCE AND PAYMENT BONDS

Acceptable bid securities and contract performance and payment bonds include: surety bonds underwritten by a company licensed to issue bonds in Hawaii, legal tender, or a certificate of deposit, share certificate, cashier's, teller's, treasurer's, or official check drawn by, or a certified check accepted by a bank and payable at site. These instruments are acceptable only to a maximum of \$100,000. If the required security or bond amount is more than \$100,000, more than one instrument (not exceeding \$100,000 each) and issued by different financial institutions shall be accepted. Personal checks are not acceptable. Bid security submitted by unsuccessful vendors will be returned upon award of contract. Failure to provide appropriate bid security will be regarded as nonresponsive and the offer will be rejected.

Bid Security

Bid security is required on construction contracts when the price is \$25,000 or more. Bid security may also be required for construction contracts less than \$25,000 or for goods and services contracts. Determination on bid security requirements are made at the request of the purchasing agency and approval is secured from

the Chief Procurement Officer. Federally funded contracts may require bid security, regardless of the contract amount. Bid security, when required, shall be in an amount equal to at least five (5) percent of the amount of the offer or in an amount set by the terms of the federal funding. The amount will be noted in the solicitation.

Contract Performance and Payment Bonds

Contract performance and payment bonds are required for construction contracts when the price is \$25,000 or more. They may also be required for construction contracts less than \$25,000, or for goods and services contracts. Performance and payment bond requirements are requested by the purchasing agency and approval is secured from the Chief Procurement Officer. Federally funded contracts may require bid security, regardless of the contract amount. When required the performance and payment bonds, shall be as follows:

1. For construction contracts, performance and payment bonds shall each be in an amount equal to one hundred percent (100%) of the contract price;
2. For goods and services contracts, performance and payment bonds shall be in an amount not to exceed fifty percent (50%) of the contract price;
3. For contracts where contract price cannot be determined at the time of award, the amounts of the performance and payment bonds shall each be stated in the solicitation; or
4. For federally funded contracts, performance or payment bonds will be set by the terms of the federal funding.

PREFERENCES

Hawaii Product

Hawaii Product preferences are defined in §103D-1002, HRS, and in §3-124-2, HAR. Bid specifications must contain notices advising prospective bidders of the preference. Hawaii products must be "qualified" and registered on the Hawaii Products list. To qualify, the product must be mined, excavated, produced, manufactured, raised or grown in Hawaii and the activities listed must contribute to at least twenty five percent (25%) of the manufactured cost. Up to a 10% preference may be granted. As the percentage of manufactured cost increases, so does the classification of the Hawaii product.

Class	Hawaii Input	Preference
Class I	25% to 49%	3%
Class II	50% to 74%	5%
Class III	75% or more	10%

The responsibility for qualification of an item as a Hawaii product rests upon the person desiring the preference. To qualify a Hawaii product, an application must be completed and submitted to the Administrator of the State Procurement Office.

Printing, Binding and Stationery Work

Printing, binding and stationery work for the state or any county must be performed within the state in accordance with §103D-1003, HRS, and § 3-124, HAR, Subchapter 2. However, whenever it is established that this work cannot be performed within the state or that the lowest in-state price for the work exceeds the lowest out-of-state price by (15%), the work may be performed outside the state. Printing, binding and stationery work includes all preparatory work, presswork, bindery work, and any other production-related work.

Reciprocity

Reciprocity is defined in §103D-1004, HRS, and §§3-124-15 to 18, HAR. The law provides for the imposition of a reciprocal preference against bidders from other states which apply preferences to ensure fair and open competition for Hawaii businesses engaged in contracting with other states. The Chief Procurement Officer may impose a reciprocal preference against offerors from states which apply preferences.

Recycled Product

Recycled product preferences are established in §103D-1005, HRS, and §§3-124-20 to 26, HAR. Preferences are given for products containing recycled material in order to promote their use.

Hawaii Software Development Business

Hawaii software development business preferences are established in §103D-1006, HRS, and §§3-124-30 to 35, HAR. The preference is given to promote the use of Hawaii software development business by state and county public purchasing agencies.

In-State Contractors Preference

In accordance with §103-45.5, HRS, this preference shall apply to all bids or proposals for state public works projects. This preference may not be used in combination with any other preference and excludes the counties. In-state contractor preference is available to any public works contractor who has filed state general excise and income tax returns for four successive years for contracts \$5 million or less or eight successive years for contracts in excess of \$5 million and been issued a tax clearance certificate. Offerors must provide a copy of their tax clearance certificate. Whenever any offeror selects and qualifies for the in-state contractor preference, the price offered by

those not selecting or qualifying for the in-state contractor preference, shall for evaluation purposes, be increased by 15%.

LATE BID

A bid must be received in the issuing agency or county office no later than the date and time designated for the bid opening. All late bids will be considered late and returned unopened.

SIGNATURE ON BID

The person signing the solicitation must be a person authorized to bind the vendor contractually. Unsigned bids or photo-copied signatures will not be accepted unless there is other documentation with the submittal that clearly shows the offerors intent to be bound, such as an original signature on bid security. Unsigned bids cannot be signed after the bid is opened, even if the vendor or their representative is present at the bid opening. Signatures must be in ink unless allowed by the terms of the solicitation, facsimile or photo-copied signatures are not acceptable.

ERROR IN BID

Initial in ink, any corrections made prior to submitting a bid. Also, do not condition or alter the language in any way. No bid or line item shall be altered or amended after the bid opening. In the case of errors in the extension price, the unit price will govern.

MODIFICATION OR WITHDRAWAL OF BIDS

A bidder may request in writing to withdraw or amend a bid prior to its opening. After bid opening, a bidder may withdraw a bid or a portion thereof only upon a written determination by the procurement officer. Withdrawal is acceptable only if there is an obvious error in the bid. Withdrawal request shall be supported by appropriate contractor cost information and explain why enforcement of the bid would impose an unconscionable hardship on the contractor.

Corrections to bids after bid opening but prior to award may be made if:

1. The mistake is attributable to an arithmetical error. The procurement officer will correct the mistake and if the error changes the extension of bid price, unit price shall govern;
2. The mistake is a minor informality which does not affect price, quantity, quality delivery or contractual conditions; or
3. If the mistake is not allowable under items 1 and 2 but if corrected, is in the best interest of the agency or for the fair treatment of the other bidders.

PROTESTS

Prior to the commencement of any action in court concerning a controversy, any bidder who claims to be aggrieved in connection with a bid, the bid process, or a pending award of a contract may protest to the pertinent Chief Procurement Officer or head of a purchasing agency. The protest must be submitted in writing within five (5) working days after the claimant knows or should have known of the fact giving rise to the protest. Hearings are

held in public with a third party administrator. It is strongly recommended the bidder contact the purchasing agency to seek a resolution prior to submitting a formal protest.

TAXES

It is the responsibility of the bidder to include all applicable taxes in the bid document unless otherwise instructed in the solicitation. Tax forms, publications and specific information applicable to your particular business situation may be obtained from any district tax office.

Tax clearance from both the state and the Internal Revenue Services (IRS) are required prior to entering into a contract and upon final payment in accordance with §103-53, HRS. A tax clearance application Form A-6 is available from the Director of Taxation at any state tax office or mailed by calling (808)587-4242 or toll-free at 1-800-222-3229.

RIGHT TO INSPECT PLANT

State contracts may require access to a supplier's plant to inspect supplies and services at the facility and to determine whether they meet solicitation or contract requirements. If the Chief Procurement Officer wishes to proceed with an inspection, it will be done at a reasonable time. On site inspection of construction projects shall be performed according to the terms of the contract.

RIGHT TO AUDIT RECORDS

The state has authority, by statute, to audit the books and records of a contractor, subcontractor or prospective contractor or subcontractor for information pertaining to:

1. Cost or pricing data
2. A state contract, including subcontracts, other than firm fixed-priced contracts.

CANCELLATION OF PURCHASE ORDERS OR NOTICE TO PROCEED

No cancellation of a Purchase order or Notice to Proceed may be made except in writing. Cancellation can occur without the consent of the contractor in the case of default or the contractor may request cancellation and Hawaii may grant relief.

PAYMENTS

Payments to the Contractor

The state of Hawaii is obligated by statute to make payment to the contractor within thirty (30) days of receipt of a proper statement **or** satisfactory delivery of the goods or performance of the services. In the event the paying entity does not comply with the thirty (30) day requirement, the contractor is eligible for interest on the unpaid balance at the rate **equal to the prime rate for each calendar quarter plus two percent, but in no event shall exceed twelve percent a year**, commencing on the thirtieth day following receipt of the statement **or** satisfactory delivery of the goods or

performance of the services. This policy does not apply to delay in payment due to a bona fide dispute between the agency and the contractor concerning the contract. Nor does it apply to a labor dispute, a power or mechanical failure, fire, or an act of God or any similar circumstances beyond the control of the state or county or when payment is contingent upon receipt of federal funds or federal approval and the solicitation for bids clearly state that payment was contingent upon those conditions.

Payments to the Subcontractor

Any money, other than retainage, paid to a contractor shall be dispersed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract, providing there are no bona fide disputes. The same policy applies to final payments made to the contractor.